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Chair

Mr. Anthony Housefather

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● (1530)

[*English*]

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): Good afternoon, everyone. Welcome to the Standing Committee on Justice and Human Rights as we begin our study of the main estimates. I could read the entire agenda, but I think everyone here is perfectly capable of reading all that we're studying.

It's a great pleasure to welcome our Minister of Justice and Attorney General of Canada, the Honourable Jody Wilson-Raybould. She is joined by various officials from the Department of Justice. She is joined by Carole Morency, who is the director general and senior general counsel, criminal law policy section, policy sector; Nathalie G. Drouin, deputy minister of justice and deputy attorney general of Canada; and Johanne Bernard, assistant deputy minister, management sector, and chief financial officer. Welcome.

The minister is with us until 4:30, after which officials will be open to answering questions. We'll try to get through as many questions as we can before then.

I will turn it over to the honourable minister to begin her comments.

Hon. Jody Wilson-Raybould (Minister of Justice and Attorney General of Canada): Thank you, Mr. Chair.

Thank you as usual to the members of the committee. I certainly appreciate the opportunity to be here before you to give some brief remarks, and then I will look to answer some questions.

As you indicated, I'm joined by Nathalie Drouin, deputy minister of justice and deputy attorney general of Canada; Johanne Bernard, assistant deputy minister, management sector, and chief financial officer; and Carole Morency. Joining us as well are François Daigle, associate deputy minister; and Elizabeth Hendy, director general, programs branch. I'm also joined by representatives of a number of the independent agencies and organizations that fall within my portfolio.

I would like to discuss how the Department of Justice intends to use the funds granted through the 2018-19 main estimates to promote and maintain a fair, transparent, and accessible justice system while providing high-quality legal services to the federal government. These include a wide range of legal advisory litigation and legislative services to government departments and agencies.

The Department of Justice has a total budgetary authority of $697.75 million through the 2018-19 main estimates, an increase of $42 million from the previous fiscal year. This additional funding is for major priorities, including federal support to the family justice system, immigration and refugee legal aid, and the indigenous justice program, among others.

Much of this year's authority will support the stewardship of the Canadian legal framework by directing funding to the provinces and territories with whom we share responsibility to administer justice.

The funding will help maintain and support a bilingual and bijural national legal framework. Funding through the main estimates will also support the department's ability to transform and modernize the justice system in keeping with the values of Canadians while protecting and maintaining the rights enshrined in the Constitution and in the Charter of Rights and Freedoms.

Our review of the criminal justice system is ongoing. It is intended to ensure that our criminal laws protect Canadians, hold offenders to account, meet the highest standards of fairness and equity, respect the charter, and demonstrate the utmost compassion to victims. These efforts will help strengthen public confidence in the justice system and judicial institutions. Our review, along with results of other consultations and government priorities, is already informing initiatives and reforms that we are introducing to modernize the criminal justice system.

In March, I introduced Bill C-75 to help reduce court delays and to address the overrepresentation of indigenous peoples and vulnerable populations as both victims and accused in the criminal justice system. We anticipate the bill will come to this committee shortly.

In Bill C-75 we are proposing amendments to the bail regime and to how breaches of administration of justice offences are handled. In particular, these changes will help eliminate the unnecessary detention of individuals pending trial, will help eliminate unnecessary bail conditions, and will ensure that fewer people are needlessly charged and convicted of minor administrative offences that do not impact public safety.

These measures will have a particularly positive impact on indigenous and marginalized Canadians who are disproportionately represented in our remand population, and who are disproportionately charged and convicted of administration of justice offences.

We are encouraging the selection of juries that better reflect the diversity of our communities, and we are bringing in stronger measures to address the problem of intimate partner violence. We are also proposing measures that will avoid re-traumatizing victims by reducing the number of inquiries and issues for which they have to testify.

In addition, Bill C-75 will reclassify many offences in the Criminal Code to give our prosecutors the discretion they need to choose the most efficient and appropriate procedure.

Our government has also launched measures to better support indigenous people and vulnerable persons as they navigate the criminal justice system. We continue to fund the indigenous court work program with $9.5 million annually. Integrating indigenous culture, language, and traditions, these court workers provide direct services before, during, and after court. They also provide courts with crucial information to guide sentencing and bail decisions while connecting victims, witnesses, and family members to culturally safe assistance. In 2016-17, over 75,000 indigenous men, women, and young people in over 435 communities received these services.

● (1535)

We have stabilized funding to the indigenous justice program, with over $11 million per year ongoing, to increase the use of restorative justice and reduce the rate of indigenous incarceration.

Since 2015-16, we have continually increased our funding to the department's legal aid program to fund provincial and territorial criminal legal aid programs. This helps economically disadvantaged persons at risk of incarceration, and youth facing prosecution under the Youth Criminal Justice Act.

The department's youth justice fund supports projects with alternatives to incarceration, and encourages a more effective youth justice system. That includes just over $6.5 million towards 16 multi-year projects that focus on culturally relevant programming for indigenous youth in the criminal justice system.

We have also increased funding to immigration and refugee legal aid by over $14 million, with an additional $3 million in contribution funding for legal aid systems and access to justice services.

Mr. Chair, our government is committed to ensuring that victims of sexual assault and gender-based violence are treated with the utmost respect and dignity. The Department of Justice victims fund provides $27.4 million in grants and contributions, supporting 476 projects across Canada. This funding supports research, innovative pilot projects, and front-line services for victims and survivors of crime across Canada.

In 2017-18, more than 100 victims of human trafficking received case management and related services, and more than 450 women and girls at risk received information about services and assistance.

In budget 2017, our government introduced its gender-based violence strategy and over $100 million over five years. Budget 2018 contributed an additional $86 million over five years, and $20 million annually thereafter, to expand on the strategy, with my department as a key contributor.

Budget 2018 proposed $50.4 million over five years to address sexual harassment in the workplace, $25.4 million for boosting legal support funding across the country to support legal action by victims, and $25 million for outreach.

We have continued our efforts to promote and maintain a more diverse judiciary. Since 2015, I have made 179 appointments and elevations. Of these appointees, over half are women, eight are indigenous, 15 are visible minorities, 11 identify as LGBTQ2, and three are persons with a disability. We continue to fund the necessary training for a more culturally sensitive and responsive bench, as well.

Finally, last month I introduced Bill C-78, the first changes to the Divorce Act in more than 20 years. The proposed reforms will ensure that our family law system is focused on the best interest of the child, better supports the safety and well-being of individuals and families, and is more efficient.

Our commitment to improving family justice includes budget 2018 funding of $77.2 million over four years and a further $20.8 million ongoing to expand the unified family courts across the country. This measure will create 39 new judicial positions across a number of provinces, while enhancing access to justice and improving outcomes for families and individuals.

Again, Mr. Chair, I would certainly like to thank the members of this committee for their ongoing work, and I look forward to our discussions today.

● (1540)

The Chair: Thank you very much, Minister Wilson-Raybould.

Colleagues, the minister is with us until 4:30. If we keep to our times, we should get two rounds of questions in.

We're going to start with Mr. Nicholson.

Hon. Rob Nicholson (Niagara Falls, CPC): Thank you very much, and thank you, Minister.

Your last comment was one of the first things I was going to ask about, with respect to the unified family court. Have you had any uptake or feedback from the provinces with respect to this? Generally this would have to be a consolidation of the courts in a particular area. What have you heard from them so far?

Hon. Jody Wilson-Raybould: I appreciate the question. We were very pleased to have the ability to expand unified family courts in budget 2018.

Leading up to budget 2018, and by virtue of the fact that it was in my mandate letter from the Prime Minister, we have been engaged with the provinces and territories on an ongoing basis, and we are pleased to say that there has been substantial feedback from the provinces, in particular from Alberta, Ontario, Nova Scotia, and Newfoundland and Labrador, all of whom are more than anxious and pleased to participate in the unified family courts.

Hon. Rob Nicholson: I'm sure it will be well received.

You talked about Bill C-75. You were quoted as saying that hybridizing these offences will not make them less serious or subject to lower sentences.

You may have heard your colleague Ralph Goodale today in question period. He said that with respect to impaired driving, your government, and indeed our government, has the toughest laws in the world, I think he said, in terms of that.

If this is hybridized, and somebody is convicted of impaired driving causing bodily harm, there will now be the option under Bill C-75 of having that as a summary conviction offence, with a penalty of 18 months, or even a fine, I believe. Do you not think that is actually lessening the penalties with respect to impaired driving causing bodily harm?

Hon. Jody Wilson-Raybould: I did hear the Minister of Public Safety speak in the House today. I believe what he was referencing is that, with the passage of Bill C-46, we will be among the countries with the toughest impaired driving laws in the world. I'm very hopeful that this bill is going to proceed through the other place.

In terms of the hybridization of offences, we've had the opportunity to have these discussions in a number of different forums. What we are doing with respect to the hybridization of offences is giving prosecutors the necessary discretion, as the member knows very well, to proceed by way of summary conviction or indictment, and this does not in any way touch on the sentencing, the fundamental principles of sentencing. This is, again, to provide the discretion to prosecutors to proceed in either fashion, recognizing that proceeding by way of summary offences, where the situation merits, will contribute to quicker processing or moving through the courts to address delays, in the comprehensive package that we've put in place with respect to Bill C-75.

I will say that, with respect to the impaired driving offence that Mr. Nicholson raises, the hybridization of that particular offence was something that was contained within Bill C-226 by his colleague Steven Blaney. This was something that was in that particular piece of legislation, as was something I'm very proud of that is contained within Bill C-46, mandatory alcohol screening.

● (1545)

Hon. Rob Nicholson: That being said, you said that with the passage of Bill C-46, we'll have the toughest sentencing regime with respect to impaired driving. Do you not think there's anything inconsistent with the possibility that part of the penalty could be a summary conviction? In terms of the toughest sentences in the world, I'll be very interested and we'll have a lot of witnesses who come forward. I'd be fascinated to hear if this is the case in any other jurisdiction.

Do you know of any other jurisdiction, particularly in the common law, where you could be convicted of impaired driving causing bodily harm and you might be subject to a penalty as low as a fine?

Hon. Jody Wilson-Raybould: I was just looking over at Carole Morency. I do not know at this point about other jurisdictions. I'm happy to find out and answer that question for the member afterwards.

However, in terms of the hybridization and how a prosecutor would proceed, it would be based on the facts of each individual case and what would be necessary and appropriate given the gravity of the offence.

We'll follow up in terms of the answer, but we certainly will, in continuing to work with the provinces and territories and continuing our overarching review of the criminal justice system, ensure that the four measures that are contained within Bill C-75 will be monitored, will be further considered as we continue to work in a collaborative fashion with other jurisdictions.

Hon. Rob Nicholson: We're going into the summer break, as you know, and I remember that at the last summer break, one of the sections in the bill that was introduced into Parliament was removing section 176, the section that protects religious services and members of the clergy. While there was some discussion just before the break, one of the things that I heard from colleagues and others is that a huge number of emails were sent and contacts were made with members of the government and with the Department of Justice.

Are you starting to hear any push-back already on the impaired driving section and the hybridization of that particular offence? Are you starting to hear that, or is that something we might hear over the course of the summer?

Hon. Jody Wilson-Raybould: In terms of the impaired driving offences?

Hon. Rob Nicholson: Yes, are you getting some push-back on this or lots of inquiries?

Hon. Jody Wilson-Raybould: I can't think of a specific push-back that we've been getting, but as you know, we receive a substantial amount of correspondence in our office, and we'll continue to follow all the feedback and concerns around this.

We have received very public support from Mothers Against Drunk Driving—

Hon. Rob Nicholson: Are they supportive of the hybridization of this section?

Hon. Jody Wilson-Raybould: Yes, they're supportive of the contents of Bill C-46 and the various provisions it contains.

Hon. Rob Nicholson: Have they taken a position on Bill C-75?

Hon. Jody Wilson-Raybould: I don't believe we've heard specifics on the hybridization of offences in Bill C-75. I would look to Carole.

Ms. Carole Morency (Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice): Just to clarify, Bill C-46 proposes to hybridize what is currently a straight indictable offence of impaired driving causing bodily harm.

Bill C-75 proposes a consequential amendment, because Bill C-75 is proposing to hybridize a number of offences and in doing so it's using a particular approach and wording, so the only consequential relationship between Bill C-75 and Bill C-46 is that the wording that's proposed to be adopted as part of the broader package in C-75 would be reflected in the impaired driving causing bodily harm hybridization as well.

The Chair: You have no more time.

Mr. McKinnon.

Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.): Thank you, Chair.

Thank you, Minister and officials, for being here once again.

Minister, the 2018-19 departmental plan notes that the department will be advancing work in various priority areas, including HIV non-disclosure. Can you provide the committee with details about this departmental priority?

Hon. Jody Wilson-Raybould: HIV non-disclosure is a public health issue. We are working very diligently with our partners within Health Canada, the Public Health Agency of Canada, and provinces and territories to do as much as we can to reduce the stigma and discrimination. To that end we were very pleased on World AIDS Day last year to release a report we had compiled that engaged many stakeholders, many different jurisdictions, about how we can proceed to address this particular issue and not to overly criminalize HIV non-disclosure but make decisions based on evidence.

We've received a substantial amount of feedback, as I said, contained within the report, and we are going to continue to ensure that we work with stakeholders, with the provinces and territories, on how we can proceed perhaps looking at guidelines for prosecutors. I know the Province of Ontario has taken steps in this regard, and we applaud them for their work, but just to underscore, we are continuing to work on this important issue, and we'll continue to work on it with our colleagues in the provinces and territories.

● (1550)

Mr. Ron McKinnon: Do you think this would require amendments to legislation, and if so, when might such legislation be brought before the House?

Hon. Jody Wilson-Raybould: In terms of the HIV non-disclosure? There are options. We released the report last year that speaks to the potential of working with our counterparts to release guidelines to prosecutors. No decision has been made on how we can proceed. As I said, the Province of Ontario has taken some steps. We're certainly continuing to look at this and working with Health Canada and others to take an approach to HIV non-disclosure that doesn't overly criminalize individuals, that takes a public health approach to ensure we are reducing the stigma around HIV and tackling it in what they call the 90-90-90 approach.

Mr. Ron McKinnon: Thank you.

In a bit of a change of pace, we'll move to court challenges. As you may recall, our committee did a study on the court challenges program and made recommendations. The 2018-19 departmental plan again notes that the Department of Justice will support the Department of Canadian Heritage "to restore a modern Court Challenges program to enable Canadians to bring before the courts cases of national significance related to constitutional and quasi-constitutional matters...".

In September 2017 the government announced that the University of Ottawa had been selected to implement and administer the new program. According to the Department of Canadian Heritage, "Decisions regarding CCP funding will be rendered by two independent expert panels: an Official Language Rights Expert Panel and a Human Rights Expert Panel." It says that the members of the panels are to be identified through a "transparent" process. Have the members of the expert panels been identified at this point?

Hon. Jody Wilson-Raybould: You have described the status of the court challenges program. Of course, in support of the Minister of Canadian Heritage, I was incredibly pleased on February 7 of last year to reinstate the court challenges program.

As far as I understand it, this would be a question for the Minister of Canadian Heritage. I do not believe that those individuals have been identified. What I do know is that work is ongoing to move to be able to identify those individuals and ensure that the court challenges program is up and running as soon as possible.

Mr. Ron McKinnon: That leads me to my next question. How are you supporting the Department of Canadian Heritage to implement this? When might we expect the renewed court challenges program to be operational?

Hon. Jody Wilson-Raybould: My officials, the Minister of Canadian Heritage, and I have ongoing conversations. We had conversations leading up to the announcement of the reinstatement of the court challenges program in and around official languages and human rights. We had conversations in terms of the expansion of the program to address other charter rights.

I wish I could give you a definitive answer as to when the court challenges program will be up and running, but I know that the determination of the minister is to put that in place as soon as possible.

● (1555)

Mr. Ron McKinnon: Thank you, Minister.

The Chair: Thank you very much.

Mr. Rankin.

Mr. Murray Rankin (Victoria, NDP): Thank you.

Thank you, Minister, and thanks to your officials as well for being with us today. It won't surprise you that I'm going to ask about something that has been called the elephant in the room in your criminal justice reforms, namely, the failure to address mandatory minimum penalties.

As you know, call to action number 32 in the Truth and Reconciliation Commission's report called on you to "amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences". It pointed out that this would assist in particularly addressing the specific needs of indigenous offenders.

Indeed, to my astonishment, the correctional investigator of Canada last year stated that although the first nation population of Canada is about 5%, fully over one-quarter of prisoners are indigenous, and in respect of indigenous women, over one-third of our incarcerated Canadians are indigenous. It was suggested that to address mandatory minimums would have a very positive effect on what I call the crisis of overrepresentation.

Today I had a press conference with my colleague, member of Parliament Sheri Benson, who tabled a private member's bill, Bill C-407, which is similar, by the way, to Senator Kim Pate's recently tabled Bill S-251. I should add that bill was prompted by high school students from Saskatoon, who chose this important measure as their primary suggested change in Canadian law. In the audience today, I recognize Brody Beuker and Camilo Silva, who drafted that bill, who helped in drafting that important measure.

Last, Minister, it was reported that fully over two-thirds of all charter challenges in the courts—256 charter challenges in the courts—are mandatory minimum sentence challenges. Imagine how much time and money it's taking to address that issue alone.

Minister, you came to office almost two years ago, and in a *Globe and Mail* article in November, you promised that new legislation on mandatory minimums was coming soon, "certainly in the early part of next year". That was in the early part of last year.

My question for you is, will you be moving forward in a timely way with your commitment to address this crisis in over-incarceration of indigenous Canadians by way of fixing the mandatory minimums? Also, will you commit today to adopt the bills that I referenced earlier—the private member's bill, Bill C-407 , and the Senate bill, Bill S-251—or perhaps include them in Bill C-75 so we can address this important issue?

Hon. Jody Wilson-Raybould: I would start, Mr. Chair, by recognizing that I agree with my colleague that there is a crisis in terms of overrepresentation of indigenous people and other marginalized Canadians in the criminal justice system, and we need to do all we can to ensure that we address that overrepresentation.

As the member knows, we have taken many steps. The introduction of Bill C-75 was one of those steps in terms of how we approach administration of justice offences and how we look at bail reform, and with regard to indigenous people in terms of bail and the administration of justice.

I hear the question that has been asked about mandatory minimum penalties. I would, first of all, say that I applaud Brody and others in the audience for getting involved and engaged in discussions around how we can improve the criminal justice system.

With respect to mandatory minimum penalties, I am continuing to ensure that we look at sentencing and sentencing reform. Mandatory minimum penalties are not within Bill C-75. I want to proceed as expeditiously as possible to ensure that I introduced a bill that will tackle the delays in the criminal justice system.

That's not to say that looking at sentencing reform, including mandatory minimum penalties, is not important, because it absolutely is. As the member said, I've been very clear in terms of where I am and my views with respect to mandatory minimum penalties. My view is that judges certainly should be provided the necessary discretion to impose sentences appropriate to the offender in front of them.

That said, we need to ensure that we are going to be putting in place sentencing reform that will stand the test of time. As the member has indicated, mandatory minimum penalties are being litigated quite extensively. There are cases in which the Supreme Court has upheld the mandatory minimum penalty, and there are cases in which it has not. I want to ensure that I have taken all possible steps and diligence as we continue to be focused on our commitment around sentencing reform, and do it in a manner, as I said, that will stand the test of time.

With respect to the private member's bill and the public bill, I have had ongoing conversations with Senator Pate. I would welcome conversations with your colleague Sheri. These are considerations, when those bills come before me, that I will engage in discussions with my colleagues on.

● (1600)

Mr. Murray Rankin: As a follow-up, you point out, I think, that some provinces' courts of appeal have upheld and some courts of appeal have not upheld mandatory minimums, creating, essentially, a patchwork system across our country for a law that is federal in nature. It's really quite disturbing to a lot of lawyers who practise criminal law that we would have such a patchwork develop. Isn't that yet another reason to move expeditiously, as you said you would, so that we would have had, I thought you said, in 2017, reform efforts? Now we have a private member's bill and a Senate bill. We have a 300-page bill that doesn't even mention it. Isn't it important that we grapple with this in a more timely way, given the patchwork that's developed, as you indicated?

Hon. Jody Wilson-Raybould: Again, in terms of sentencing reform, this is something that we are going to continue to review. This is a priority, as you say. It's in my mandate letter. I will consider the public and the private member's bills when they come before me and will have discussions.

Further, when Bill C-75 comes here, I would be very happy to continue this discussion around sentencing reform and hear what, if anything, the honourable members of this committee have to say with respect to what's in Bill C-75 and perhaps what's not in Bill C-75.

The Chair: Thank you very much.

Mr. Fraser.

Mr. Colin Fraser (West Nova, Lib.): Thanks very much, Mr. Chair.

Minister, thank you for coming to our committee. As always, it's good to see you. I thank your officials as well for being here today to answer our questions.

I want to start with something you've touched on already, which is that budget 2018 put forward funding to implement the unified family courts in the provinces that don't already have them. I'm from Nova Scotia, and I was a practising lawyer there in the family system. I can tell you that this is going to be well received in Nova Scotia and I'm sure in the other provinces that this is going to be affecting. I know it will be standardizing rather than having two levels of court for family jurisdictions in those provinces. This is going to make a big difference for family law in those jurisdictions.

I'm wondering if you can touch on why it's so important that the unified family court system in Canada be standardized across these provinces that don't already have it, and on what it will mean for family law justice in Canada.

Hon. Jody Wilson-Raybould: Again, we were very pleased to see the support for unified family courts in budget 2018. We're working toward ensuring that we can meet the needs and identify the judges, the 39 judicial appointments that were in the budget, in the four provinces that expressed a very real desire to expand their programs or to actually set up programs, as I said earlier, in Alberta, in Ontario, in Nova Scotia, and in Newfoundland and Labrador.

In terms of family law and access to justice in family law, the unified family courts, as you know, having practised in Nova Scotia, will create a space where individuals can go. We'll have within those unified family courts the ability of the so-called one-stop shop. We'll have specialized judges in family law in those courts. We'll have simplified procedures within those courts. We'll also have community programs and support services to assist individuals who are going through this. For most people, the only time they interact with the justice system is in family law. We want to ensure that we do everything we can to assist those individuals in gaining the necessary access to justice in a timely way and as efficiently and cost-effectively as possible.

When we were going through all of our discussions and consultations with the provinces and with individuals, there was clearly a desire to ensure that in concert with unified family courts we're taking the necessary steps in terms of the reforms we've proposed in Bill C-78 around the Divorce Act and around two other pieces of federal legislation to also contribute to improving the family law situation in the country.

● (1605)

Mr. Colin Fraser: Minister, I agree with you that in implementing the unified family courts along with the implementation of Bill C-78, which is currently before Parliament, this will have a big effect on the efficiencies in the family law system in Canada. With Bill C-78 it's the first time in over 20 years there's been a major overhaul and update in our divorce laws. That will really help a lot of families in Canada who are going through those challenging circumstances.

I want to turn now to Bill C-46, which was touched on earlier, and the provision in the bill dealing with mandatory alcohol screening. Our committee studied Bill C-46, and one of the things stated over and over again to our committee was that to reduce the incidence of impaired driving, there needs to be a fear of getting caught. That's really what will be important in reducing the incidence of people being impaired on our roads.

We've heard that mandatory alcohol screening in other jurisdictions has worked. I know that there has been some discussion about whether it's constitutional, but there are constitutional experts who have weighed in who believe that the provision is justified under the charter. The main reason for this is that it is of compelling public interest to reduce the harm of impaired driving on our roads.

I know that this bill is currently in the other place. It's before the Senate right now. The House of Commons has already passed that. What do you say about the importance of getting Bill C-46 passed by both houses of Parliament and into law, along with the provision of mandatory alcohol screening, to reduce the incidence of drinking and driving on our roads and impaired driving overall?

Hon. Jody Wilson-Raybould: You reiterated that quite well in terms of other jurisdictions and the charter implications with respect to mandatory alcohol screening. With regard to Bill C-46, mandatory alcohol screening is the centre of our proposed renovation of the impaired driving laws in Canada. As you said, in other jurisdictions that have mandatory alcohol screening, those who would have gone undetected—going through a road stop, for example—are in the range of about 50%.

The idea of having mandatory alcohol screening as a reality would be a significant deterrent in terms of those individuals who think it's appropriate to get behind the wheel of their car when they have been drinking alcohol or are impaired by drugs. The objective with respect to mandatory alcohol screening is to ensure that individuals do not do that, that they do not get behind the wheel while impaired by any kind of alcohol or drug.

I was very disappointed when the senators voted to remove mandatory alcohol screening. This is, again, the hallmark of Bill C-46. We are determined to have mandatory alcohol screening contained within this legislation as it proceeds, because it will save lives. MADD Canada has backed mandatory alcohol screening, and 40-some jurisdictions throughout the world have proven, based on evidence, that this saves lives. This saves lives, and what could be more important than that?

Mr. Colin Fraser: Thank you, Minister.

The Chair: I again will remind everyone that the minister needs to leave at 4:30. Any questions after that time will be answered by officials. We're going to try to get through as many as we can in our second round before the minister has to leave, so try to be quicker with your questions if you can, but it's great to hear the fulsome questions and answers.

Mr. Ehsassi, you're first in the second round.

● (1610)

Mr. Ali Ehsassi (Willowdale, Lib.): Thank you, Mr. Chair.

Madam Minister, allow me to join my colleagues in welcoming you to this committee once again and also in thanking all your officials for being here.

I'd like to follow up on the approach taken by Mr. Fraser, just to ask about some of the changes we're seeing.

My first question is in relation to Bill C-74, which has to do with having new positions appointed for Ontario, Saskatchewan, and the Federal Court. Bill C-74 is still before the House, but as I understand it, under this bill there will be an additional complement of six positions for the Ontario Superior Court, one addition to the Saskatchewan Court of Appeal, and one addition to the Federal Court. I can tell you that this has been received very positively in the legal community.

I would ask you two quick questions. First of all, how did you arrive at these new numbers? Second, as a follow-up, how do you suspect that this will improve the efficiency of our judicial system?

Hon. Jody Wilson-Raybould: Indeed, you're quite right in terms of the support for new judicial positions in the jurisdictions you referenced. How did we arrive at those numbers? I, my judicial affairs adviser, and my office have ongoing conversations with all jurisdictions and with my counterparts in the provinces and territories, as well as discussions with the chief justices in the provinces and my officials. In working with jurisdictions, we assessed it through ongoing conversations in building a business case for additional positions, and we have arrived at what was reflected in terms of our ask with respect to budget 2018.

On the second question about how this is going to improve efficiencies, we want to ensure that we have the necessary judicial resources in place, the necessary judicial resources that reflect the diversity of the country. In addition to these appointments, we are continuing to proceed with our renovated judicial appointments process, through which, as I said in my opening remarks, I was pleased to have appointed 179 judges to the superior courts.

We're going to continue to fill these vacancies and continue to work with the chief justices and the judicial advisory committees that review judicial applications, as we are doing on an ongoing basis, to proceed as quickly as we can to fill the necessary judicial vacancies with meritorious candidates who reflect the diversity of the country.

Mr. Ali Ehsassi: I will now switch to Bill C-16, which received royal assent in June of last year. Under that bill, the grounds for discrimination in the Canadian Human Rights Act have been broadened, namely, by adding "gender expression" and "gender identity" as well. Would you mind explaining to us what you think the impact of these changes will be on the commission? Is this in any way responsible for the increase in the number of complaints that have been received by the commission?

Hon. Jody Wilson-Raybould: I appreciate the question. I will say from the outset that the commissioner, Marie-Claude Landry, would have the ability to answer that question specifically, I know, but with respect to Bill C-16, which was about gender identity and gender expression and adding those as prohibited grounds in the Canadian Human Rights Act, as well as amending the Criminal Code, it was an extraordinary process and bill to move through Parliament.

It was legislation that for years was advocated for by so many people who may express themselves differently in terms of their gender. It was an incredibly proud moment for me and I know for many Canadians across the country in feeling that there is recourse in terms of discrimination based on gender identity and expression.

In terms of the Canadian Human Rights Commission, I know that they have been engaged in information gathering in terms of providing educational materials on gender identity and gender expression, and they recognize that there will be an increase in terms of the cases that are before the Canadian Human Rights Commission. In terms of numbers and the substantive information, the educational exercises, and the engagements they've been having across the country, I would say that the commissioner would probably be better placed to speak to her important work.

● (1615)

Mr. Ali Ehsassi: Thank you, Minister.

The Chair: Thank you very much, Mr. Ehsassi.

Mr. Cooper.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you, Mr. Chair.

Thank you to the officials.

Thank you, Madam Minister, for being here.

I want to first of all just follow up on an answer that you provided in response to a question posed by Mr. Nicholson. This deals with the hybridization of offences. You indicated that there really is no problem because all it is doing is giving prosecutors discretion to prosecute by way of summary conviction when, as you put it, the circumstances warrant. That's true: prosecutors would have the discretion through the hybridization. When would circumstances warrant going by way of summary conviction for, I don't know, arson for fraudulent purposes, for example?

Hon. Jody Wilson-Raybould: In terms of individual cases, individual charges, how a prosecutor decides to proceed by way of summary conviction or by way of indictment would be at their discretion. What we want to do is, based on the individual facts of a particular case—I'm not going to hypothesize or create a particular case—to provide prosecutors with the additional tools to exercise their discretion in that regard.

The objective with respect to the hybridization and/or the reclassification of offences is to assist in addressing delays, not necessarily in and of themselves, but broadly speaking in terms of what we have proposed in the bold reforms in Bill C-75.

Mr. Michael Cooper: Thank you, Minister, for that. I have to say that I think a lot of Canadians would be very surprised and couldn't think of any circumstances, whether they be for arson for fraudulent purposes, or participating in a terrorist organization, or kidnapping a minor, or advocating genocide, or perhaps material benefit from sexual services, in which any of those offences and a whole list of others would be suitable for prosecution by way of summary conviction, to go from a maximum sentence of 10 years to something as low as a mere fine. I think Canadians would be astounded by that.

You also just mentioned, with respect to the issue of delay, that that's one objective of hybridizing. We have the Jordan decision. Under Jordan a delay is deemed presumptively unreasonable after 30 months between the laying of charges and the conclusion of a trial for matters before superior courts and 18 months for matters before provincial courts. Prosecuting by way of summary conviction is to prosecute at a provincial court level, which would reduce the timeline to prosecute by almost half. How does that deal with delay? Isn't this just a case of downloading onto the provinces?

Hon. Jody Wilson-Raybould: I will tackle the last question first, and then move backwards.

In terms of downloading onto the provinces, I want to be very clear. We have been engaged in a broad-based review of the criminal justice system since I became the minister and the Prime Minister asked me to engage in this. We have, through those consultations and discussions, been very actively participating in federal, provincial, and territorial meetings with my counterparts in the provinces and territories. In fact, because we share, as the member knows, the administration of justice in our responsibilities, we have come together on many occasions, as ministers and as officials in working groups, to propose what necessary bold reforms would be needed in order to address delays. This is not a matter of downloading onto the provinces. This is something that we have had many discussions about, proceeding by way of summary conviction.

All offences are serious—don't misconstrue my words—but by proceeding through provincial court, a case can proceed in a quicker fashion where the situation and the case are appropriate, and that would be determined by prosecutors.

The member talks about Canadians being astounded. I want to be very clear that the proposal we've put in place with respect to Bill C-75 and the hybridization of offences or the reclassification of offences in no way, shape, or form touches on the fundamental principles of sentencing. We are not changing those. This is going to continue to be the case. The judge is going to continue to have to assess the proportionality, the degree of responsibility of the offender. To misrepresent that we're doing something and changing the sentencing principles is a mischaracterization.

● (1620)

Mr. Michael Cooper: No, Madam Minister, I am not misrepresenting anything. I think I was quite clear that you are taking a sentence, under an indictable that is punishable by up to 10 years, and if it's prosecuted by way of summary conviction, the maximum is two years less a day, and it could be as low as a mere fine. That's not a misrepresentation; that's a fact.

I want to also ask you about Bill C-39, which was introduced on March 8, 2017. Lyle and Marie McCann of St. Albert were brutally murdered by Travis Vader. After waiting for justice for six years, the McCann family, just when they thought justice had arrived, found out that it had not arrived, because the trial judge applied an unconstitutional section of the Criminal Code, section 230.

To your credit, you did introduce Bill C-39 to repeal unconstitutional sections of the Criminal Code, but more than a year later, that bill is stuck at first reading. It has now been rolled into Bill C-75, which is a big bill. As you can see, it's a contentious bill. There is a lot of debate around it.

By contrast, with Bill C-39 there is no debate. I think there is a consensus, or near consensus, that we need to get unconstitutional sections of the Criminal Code out of the Criminal Code. I just don't understand, after more than a year, what the delay is and why it has been rolled into Bill C-39. Quite frankly, this could have been passed on a voice vote a year ago.

Hon. Jody Wilson-Raybould: With respect to Bill C-39, as you say, it has now been put into Bill C-75, as has another very important piece of the legislation around victim fine surcharge and human trafficking.

In terms of time with regard to the passage or proceeding in the House, I'm not sure that's a question I can specifically answer. As to why we have put these bills into Bill C-75, it's to ensure that the important provisions that are contained within these proposed pieces of legislation are moved through. It makes sense to me, in terms of a thematic approach, to put these bills into Bill C-75, because they are all looking to amend the Criminal Code.

I hear the member in talking about the McCann family and the tragedy faced by the McCann family. We wanted to ensure, in then Bill C-39 and in Bill C-51 , that we do renovate the Criminal Code and that we do get rid of the unconstitutional provisions. I would look to the member, as well as to everybody on this honourable committee, to have vigorous debate and discussion about all of the provisions and proposals that are contained within Bill C-75. This committee and the legal and constitutional affairs committee of the Senate have been very diligent, and necessarily so, in terms of seeking that I and our government address delays in the criminal justice system. Bill C-75 does do that, as well as address the necessary changes we have proposed in terms of the victim fine surcharge to address indigent offenders, as well as get rid of the constitutional provisions beyond section 230, which the member talked about.

The Chair: I think this will be the last question the minister will be able to take. Afterwards, the officials will be with us. At the moment, I think we'll hit 4:30 p.m. with this next question.

The next questioner in this round is Ms. Khalid.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you, Chair.

Thank you very much to the minister and her officials for their time today and for their very important work on this very important file.

Minister, something that I face in my constituency on a very regular basis is refugee cases. Some of them are very, very heart-wrenching. When we did our study on access to justice and access to legal aid, we heard that the demand for immigration and refugee legal aid will increase rather than decrease, and that the current investments are not sufficient.

According to the 2018-19 main estimates, the Department of Justice spending authority will increase by $14.2 million in contribution funding for immigration and refugee legal aid. I'm wondering how that funding will be distributed across the country. What will be the split among the provinces?

● (1625)

Hon. Jody Wilson-Raybould: Thank you for the recognition that this is an ongoing issue and that there is a need, as always, to address legal aid needs in the provinces and territories, and, in this case, with respect to immigration and refugee legal aid. I will say that the Department of Justice—and you've already spoken about the amounts that are contained within budget 2018—continues to work with my colleague Minister Hussen of Immigration, Refugees and Citizenship Canada on this.

The allocations of the dollars will be provided, as you say, to the provinces and territories. We will work in collaboration with the provinces and territories to determine what the appropriate distribution of these additional resources is, recognizing that there are different circumstances in provinces with respect to this issue.

Ms. Iqra Khalid: Is there a long-term strategy for providing more support in the justice system to asylum seekers as they settle into our country?

Hon. Jody Wilson-Raybould: Again, I'm not certain I'm the most appropriate person to be answering those questions. I will assure the member and members of this committee that we do work very closely with the Minister of Immigration on how we can address these really important issues and provide the necessary legal support to the minister.

Ms. Iqra Khalid: Thank you, Minister.

I'm going to change streams here. According to the 2018-19 main estimates, there is going to be an increase of $11 million in funding for the indigenous justice program, which was the aboriginal justice strategy before, which provides for community-based programs that use restorative justice approaches as an alternative to the mainstream justice system and corrections.

How much money will be dedicated to this program on a yearly basis?

Hon. Jody Wilson-Raybould: I love that question.

I'm incredibly happy that for the indigenous justice program we now have ongoing and stable funding in the amount of $11.2 million. This program reaches 197 specific programs and 750 communities across the country. It is to support community-based justice programs, to support restorative justice measures, and to address issues for individuals who are marginalized or suffering from addictions and mental health issues. The indigenous justice program has proven to reduce the recidivism of these individuals who come before the justice system.

I think the indigenous justice program, which has long been up and running but which now has stable funding, is an incredible step towards ensuring that we continue to look at alternative forms, such as rehabilitation and restorative justice.

I hope and trust that that will continue.

Ms. Iqra Khalid: Minister, we've been studying human trafficking domestically within Canada. We've learned that indigenous communities are really impacted by it.

Will the indigenous justice program be a way of supporting those minorities who have been trafficked or who have been victims or involved in that whole scheme? Will it be a resource for them to use in terms of getting that rehabilitation they require or the support they require as well?

Hon. Jody Wilson-Raybould: I think that's an important question. We are seeking to address human trafficking in many different ways, including within Bill C-75, by providing additional tools to prosecutors and law enforcement. In terms of this program and assisting, there has been and is opportunity to support individuals who have been impacted by human trafficking in ways beyond the indigenous justice program, such as through victim support services and our victim funds that have provided dollars to assist in this regard.

● (1630)

Ms. Iqra Khalid: Thank you, Minister.

The Chair: I would like to thank the minister very, very much for being here today. We very much appreciate it.

I'll ask that we take a brief recess while we allow the Justice officials to bring up whoever else will join them for remaining questions.

Once again, thank you very much, Minister Wilson-Raybould.

We will suspend briefly.

● (1630)

_____ (Pause) _____

● (1635)

[*Translation*]

The Chair: I will ask everyone to take their seats. After that quick break, we are now ready to resume the meeting.

[*English*]

Joining us we have Mr. François Daigle, associate deputy minister at the Department of Justice. We also have Ms. Kathleen Roussel, director of public prosecutions and deputy attorney general of Canada, and George Dolhai, deputy director of public prosecutions, both under the Office of the Director of Public Prosecutions. Also, the three members of the panel are remaining with us.

We will finish the second round of questions. The Conservatives have advised us that they don't have any questions, so we're going to go to Mr. Rankin. Then I'll ask if anybody has any other questions.

Mr. Rankin, the floor is yours.

Mr. Murray Rankin: Thanks very much, Chair. I have two quick questions.

The first involves legal aid and the funding thereof. In the estimates 2018-19, they propose, "An increase of $3.0 million in contribution funding for Provinces and Territories in Criminal Legal Aid Systems and Access to Justice Services".

There had been an earlier significant increase in legal aid funding, for which I commend the government, but I'd like to ask you what the views of the provinces and territories were about a $3-million investment. I noticed an article in the *Vancouver Sun* by Ian Mulgrew that quotes the CEO of British Columbia's Legal Services Society as saying that he was happy with the increase and that in fact it was a big one, but he said that it simply wasn't enough to do justice.

Specifically, on the immigration and refugee side, the estimates indicate an increase of $14.2 million for immigration and refugee legal aid, which I would have thought would be entirely federal—maybe I'm wrong. I want to know what the reactions of the provinces were in respect of that very separate increase to the legal aid budget. Our committee has been very seized of this, as you may know. We did a report, so I'd like your views on whether we got to the right spot in terms of funding.

[*Translation*]

Ms. Nathalie Drouin (Deputy Minister of Justice and Deputy Attorney General of Canada, Department of Justice): Mr. Chair, I am going to ask Johanne Bernard to provide more information on the numbers and, then, I will comment.

[*English*]

Ms. Johanne Bernard (Assistant Deputy Minister, Management Sector, and Chief Financial Officer, Department of Justice): Thank you for the question.

In terms of legal aid for criminal purposes, criminal legal aid, you mentioned an increase of $3 million. This was part of an announcement of an additional $88 million over five years in budget 2016. The top-up, if you will allow me to use that term, was $12 million last year. It's $15 million this year, so that's an increase of $3 million, but it's really a $15 million top-up. It's quite a bit larger than perhaps what you had in mind.

Mr. Murray Rankin: Across the country?

Ms. Johanne Bernard: Yes.

The other amount you referred to was for...?

Mr. Murray Rankin: It was for immigration and refugees.

Ms. Johanne Bernard: It was immigration legal aid. That $14.2 million was announced in budget 2017, but there is also not yet reflected here an amount announced in budget 2018 of $12.8 million. That will come. It's currently reflected in the budget implementation vote. Once the Treasury Board submission is approved, the funds will be transferred to us.

Mr. Murray Rankin: That would mean a total of about $30 million. Do I have that correct?

Ms. Johanne Bernard: Yes. It's $27 million.

Mr. Murray Rankin: Yes, and again, how is it allocated amongst provinces? For example, if one province has a greater need than another, is it simply on a per capita basis?

Ms. Johanne Bernard: There is a formula, yes, and it's based on volumes of requests and also costs. The lawyers cost different amounts amongst the provinces. It's formula based, and provinces approach us to get increased funding.

Mr. Murray Rankin: Given that it's a federal responsibility entirely, these immigration and refugee matters, is it the Government of Canada's view that it should be 100% funded by the various legal aid programs across the country or is there a cost-sharing even for immigration and refugee legal aid?

● (1640)

Ms. Johanne Bernard: There's a cost-sharing amount, yes.

Mr. Murray Rankin: That seems to me to be inappropriate given that it's driven entirely by federal decisions, yet the legal aid plans have to pick up a portion of that. I guess that's a political decision, not a funding issue.

Ms. Nathalie Drouin: If I may add to that, we have different legal aid systems across the country. It depends on the level of services that each province is ready to offer their respective immigrants.

Mr. Murray Rankin: I have one more question on a totally different matter, if I may. I concede at the outset that this may not be an appropriate question within your bailiwick, although I did look at the departmental plan for the current year and it talks about your responsibility and legislative services particularly for constitutional matters.

As you may know, the Supreme Court of Canada has frequently said that privacy is a quasi-constitutional right in this country. Dr. David Flaherty, who was probably Canada's leading expert on privacy and data protection, has written about our 35-year-old Privacy Act claiming that the act is "tantamount to a cart horse struggling to keep up with technologies approaching warp speed". The Internet hadn't even been invented let alone global positioning systems, biometrics, etc. How can the government not take this on as a priority for legislative reform explicitly given its quasi-constitutional nature?

Ms. Nathalie Drouin: I cannot answer for the politicians for sure. What I would like to say is that of course at the department we do study what other countries are doing to make sure that their private system evolves taking into account digital rights, for example. This is the work we are undertaking right now at the department.

Mr. Murray Rankin: Can I ask you explicitly, therefore, whether there is a reform of the 35-year-old Privacy Act under way at this time?

Ms. Nathalie Drouin: What I can tell you is that of course we are taking into account all of the evolution in terms of digital rights as I said, and if there is any appetite any time to bring a reform, we'll be prepared to propose and give recommendations to decision-makers.

Mr. Murray Rankin: Thank you.

The Chair: Thank you very much, Mr. Rankin.

We've now finished our two rounds of questions. Is there any member who wishes to ask another question?

Mr. Picard.

[*Translation*]

Mr. Michel Picard (Montarville, Lib.): Good afternoon and welcome to the committee, everyone.

Switching gears, I'm going to turn to the issue of fraud.

In the last budget, the government introduced measures on remediation agreements, a Canadian version of the deferred prosecution agreements in the U.S. The measures seem to be causing some confusion in the market, and the media coverage may be confusing as well. People think the legislation is all about getting rid of corporate penalties and giving companies a get-out-of-jail card.

Originally, what problems was the government trying to fix with this legislation? Was it the result of the Jordan decision and the excessive delays in the investigation of financial crime? Conversely, did the legislation seek swifter co-operation so that the innocent employees of these companies could keep working in their fields?

Ms. Nathalie Drouin: Thank you for your question, Mr. Picard.

These measures did not come about in response to the delays in the criminal justice system. Rather, the measures stem from the government's desire to hold corporations accountable for wrongdoing and, above all, to prevent further wrongdoing. The government also wanted to protect victims by allowing for restitution and compensation for harm suffered because of financial crimes. Furthermore, it was important for the government to protect employees who did not engage in the financial wrongdoing of their employer by providing them with court protection. Any remediation agreements that are negotiated will have to be approved by the court.

Mr. Michel Picard: Do these agreements, or measures, apply only to companies that have contracts with the government, or do they apply to everyone in the market?

● (1645)

Ms. Nathalie Drouin: The measures apply to all companies in the marketplace, not just those that commit crimes against the government.

Mr. Michel Picard: Thank you.

The Chair: Thank you, Mr. Picard.

Are there any further questions?

We have to go and vote, but first, I would like to thank all the justice officials for being here.

I want to say what a great job you are doing, and I know that all the committee members certainly appreciate what you do for us and Canadians.

Ms. Nathalie Drouin: Thank you, Mr. Chair.

We want to thank the committee members, as well.

[*English*]

The Chair: Now we'll go to the votes on the main estimates.

First, let me ask, is there unanimous consent that I group them all together instead of voting separately on eight or nine items, or would you prefer that we vote separately? Is there consent to group?

Some hon. members: Agreed.

The Chair: Okay, and they will be carried on division.

ADMINISTRATIVE TRIBUNALS SUPPORT SERVICE OF CANADA
Vote 1—Program expenditures.....$55,556,354

(Vote 1 agreed to on division)

CANADIAN HUMAN RIGHTS COMMISSION
Vote 1—Program expenditures.....$19,854,487

(Vote 1 agreed to on division)

COURTS ADMINISTRATION SERVICE
Vote 1—Program expenditures.....$66,233,161

(Vote 1 agreed to on division)

DEPARTMENT OF JUSTICE
Vote 1—Operating expenditures.....$236,419,587
Vote 5—Grants and contributions.....$391,765,319

(Votes 1 and 5 agreed to on division)

OFFICE OF THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS

Vote 1—Office of the Commissioner for Federal Judicial Affairs — Operating expenditures.....$8,064,447

Vote 5—Canadian Judicial Council — Operating expenditures.....$2,039,412

(Votes 1 and 5 agreed to on division)

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Vote 1—Program expenditures.....$162,190,770

(Vote 1 agreed to on division)

REGISTRAR OF THE SUPREME COURT OF CANADA

Vote 1—Program expenditures.....$24,520,525

(Vote 1 agreed to on division)

The Chair: Shall the chair report the main estimates to the House, less the amounts granted in interim supply?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Thank you.

The meeting is adjourned.

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